IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO.795 OF 1997

Financial Strategies Group (I) Pvt. Ltd.
..Petitioner.

Vs.

Nukem Remedies Ltd.
..Respondent.

Mr. K.B. Irani i/by Medekar & Co. for the Petitioner.

CORAM : A.M. KHANWILKAR, J.
DATED : 21/7/2005.

P.C.:

1. Heard counsel for the petitioner. Perused the pleadings and the documents on record. None appears for the respondent though served. No reply has been filed opposing this petition. The petition has been admitted by order dated 21.4.1998 and has been duly advertised in newspapers as well as in Government Gazette.

2. The petitioner states that petitioner has supplied the goods to the respondent company under different invoices as per the requisition of the respondent company. The goods were delivered to the respondent and the same were accepted without any demur. No complaint regarding quality or quantity of the goods was ever registered by the respondent

company to the petitioner. The outstanding liability payable by the respondent company to the petitioner is in the sum of Rs.70.57/- lacs. From the petition, it appears that the respondent company had handed over 10-cheques to the petitioner in the sum of Rs.41/- lacs which were however, dishonoured. Criminal proceeding between them is pending in the court. The fact remains that the liability to pay the amount is acknowledged by the respondent company. Inspite of the statutory notice, no reply was sent nor amount was offered to the petitioner. Eventually, the present petition has been filed and has been admitted and advertised. No reply has been filed even in response to the petition. In that sense, the assertions made in the petition have remained uncontroverted. It necessarily follows the legal presumption against the respondent company that company is unable to pay its debt, has remained rebutted. In the circumstances, this court has no option but to allow the petition in terms of prayer clause (a) and (b). Ordered accordingly.

(A.M. KHANWILKAR,J.)